

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

ANTHONY PRATT,

Plaintiff,

v.

ORDER

KURT REIM, MARION FEATHER,
STEVE ROBINSON, DAN WINGLER and
PHIL URBANEK,

07-C-327-S

Defendants.

Plaintiff moves reconsideration of this Court's order dismissing the above entitled matter without prejudice for his failure to exhaust his administrative remedies. This motion will be denied because exhaustion of administrative remedies is required. He moves in the alternative to appeal this Court's decision.

On October 26, 2007 judgment was entered in the above entitled matter in favor of defendant against plaintiff dismissing his complaint and all claims contained therein without prejudice. Pursuant to his request the Court will consider plaintiff's motion of reconsideration in the alternative as a notice of appeal and a request to proceed in forma pauperis on appeal.

____ In Newlin v. Helman, 123 F.3d 429, 433 (7th Cir. 1997) the United States Court of Appeals discussed the determination of whether an appeal is taken in bad faith as follows:

Frivolousness is an objective inquiry; "good faith" implies a subjective standard. But

judges lack access to the plaintiff's mental processes. Thoughts must be inferred from acts. A plaintiff who has been told that the claim is foreclosed and then files a notice of appeal without offering any argument to undermine the district court's conclusion is acting in bad faith.

On October 25, 2007 plaintiff was advised that in any future proceedings he must offer argument not cumulative of that already provided to undermine this Court's conclusion that his claims must be dismissed. Plaintiff has not provided such argument. Accordingly, plaintiff's request to proceed in forma pauperis on appeal is not taken in good faith and will be denied.

ORDER

IT IS ORDERED that plaintiff's motion for reconsideration is DENIED.

IT IS FURTHER ORDERED that plaintiff's request to proceed in forma pauperis on appeal is DENIED.

Entered this 6th day of November, 2007.

BY THE COURT:

/s/

JOHN C. SHABAZ
District Judge